

REMARKS

1. Summary of the Office Action

In the Office Action mailed February 23, 2010, the disposition of the claims is as follows:

Claims 1, 5, 6, 8, 31, 32, and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sitaraman (U.S. Patent No. 6,442,165), in view of Luther (U.S. Patent Application No. 2003/0023877) and O'Neill (European Patent No. EP 1,137,236).

Claims 10, 26, and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sitaraman in view of McLampy (U.S. Patent No. 7,028,092).

Claims 12 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sitaraman in view of McLampy and O'Neill.

Claims 13, 16, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sitaraman in view of Luther and McLampy.

Claim 28 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sitaraman in view of McLampy, O'Neill, and Schuster (U.S. Patent No. 6,577,622).

Claim 33 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sitaraman in view of McLampy, O'Neill, and Luther.

2. Status of the claims

Currently pending are claims 10, 13, 16, 26-30, and 35-40. Of these, claims 10, 13, and 26 are independent. Applicants have added new claims 35-40, which are supported generally throughout Applicants' Specification and Drawings.

3. Rejection of independent claims 10, 13, and 26 under 35 U.S.C. § 103(a)

Independent claim 26 recites, *inter alia*, a control node receiving incoming calls, if a current call volume is below a threshold value, assigning the incoming calls to a first proxy and a

second proxy based on a round robin protocol, and if the current call volume is above the threshold value, assigning the incoming calls to the first proxy and the second proxy based on their respective weights.

The Office Action rejected claim 26 as being obvious over the combination of Sitaraman and MeLampy. In particular, the Office Action cited to Sitaraman's column 9, line 50 through column 10, line 25, as well as MeLampy's Figure 2, column 9, lines 29-42, and column 13, line 24 through column 15, line 9 as disclosing the above claim feature. However, Applicants assert that the Office Action has not established a *prima facie* case of obviousness.

Even when combined, Sitaraman and MeLampy fail to disclose or suggest the steps, as recited in claim 26, of "if a current call volume is *below the threshold value*, assigning the incoming calls to the first proxy and the second proxy based on a round robin protocol; and if the current call volume is *above the threshold value*, assigning the incoming calls to the first proxy and the second proxy based on their respective weights." In particular, Sitaraman and MeLampy do not teach a threshold value, nor do these references teach using a round robin protocol to assign a proxy when the current call volume is below the threshold value, or using the respective proxy weights to assign a proxy when current call volume is above the threshold value.

Accordingly, and without conceding any of the Office Action's statements not explicitly addressed herein, Applicants submit that claim 26 does not reasonably or logically follow from Sitaraman and MeLampy, and is therefore allowable. Based on analogous reasoning, Applicants also submit that claims 10 and 13 are also allowable. Further, Applicants submit that all dependent claims are allowable for at least the reason that they depend from an allowable claim.

4. Claims 28, 36, and 39 are separately allowable

Dependent claims 28, 36, and 39 all recite, *inter alia*, invalid INVITE messages being sent to each of the proxies. The Office Action stated that O'Neill at column 9, paragraph 40 teaches an invalid SIP message. Applicants disagree.

O'Neill does not teach an invalid SIP *message*. Rather, O'Neill discloses an otherwise valid SIP message with an invalid *destination SIP URL address*. O'Neill states at col. 9, lines 44-52:

In step 512 a network server having authority for the domain for the destination SIP URL determines whether the destination SIP URL address is a valid network address, that is to say, whether the SIP URL address has been allocated by the domain authority to a SIP user. The SIP URL destination address is a valid network address if it can be resolved by a location database using DNS or other resolution means to a respective numerical IP address, for example.

Thus, O'Neill's SIP URL address is contained in a SIP message and is invalid if it cannot be resolved into an IP address. In contrast to O'Neill, claims 28, 36, and 39 recite that REJECT messages result from the invalid INVITE messages.

Accordingly, and without conceding any of the Office Action's statements not explicitly addressed herein, Applicants submit that claims 28, 36, and 39, are allowable.

5. Claims 29, 37, and 40 are separately allowable

Dependent claims 29, 37, and 40 all recite, *inter alia*, the control node assigning weights to the proxies also based on a pre-weighting of the proxies that assigns a handicap to each respective proxy to account for processing capabilities of the respective proxies. The Office Action stated that Sitaraman at column 9, line 50 through column 10, line 25 teaches a pre-weighting of proxies.

Nonetheless, these claims recite that the pre-weighting of the proxies that assigns a handicap to each respective proxy to account for processing capabilities of the respective

proxies. Applicants have reviewed Sitaraman, and believe that Sitaraman does not disclose a pre-weighting of proxies that assigns a handicap to each respective proxy to account for processing capabilities of the respective proxies.

Accordingly, and without conceding any of the Office Action's statements not explicitly addressed herein, Applicants submit that claims 28, 36, and 39, are allowable.

6. Summary of Examiner Interviews

a. June 16, 2010 Interview

A telephonic Examiner Interview took place on June 16, 2010. Participants included Examiner Alicia Baturay and Applicants' Representative, Michael Borella. Applicants thank the Examiner for conducting the interview.

The participants discussed claims 10, 13, and 26, as well as the McLampy reference. No exhibits were shown, no demonstrations were conducted. During the interview, Applicants' representative suggested that McLampy failed to disclose the claim element of a control node receiving incoming calls, if a current call volume is below a threshold value, assigning the incoming calls to a first proxy and a second proxy based on a round robin protocol, and if the current call volume is above the threshold value, assigning the incoming calls to the first proxy and the second proxy based on their respective weights. Agreement on the claims was not reached.

Further, in view of the Interview Summary mailed June 21, 2010, Applicants agree that each element of any patent claim is important. However, Applicants do not agree that any one claim element was characterized as "critical." While the "assigning" claim element was the focus of the interview, Applicants submit that this claim element is not any more or less important than any other claim element.

b. July 15, 2010 Interview

A telephonic Examiner Interview took place on July 15, 2010. Participants included Examiner Alicia Baturay, Examiner Baturay's supervisor, and Applicants' Representative, Michael Borella. Applicants thank the Examiners for conducting the interview.

The participants again discussed claims 10, 13, and 26, as well as the McLampy reference. No exhibits were shown, no demonstrations were conducted. During the interview, Applicants' representative suggested that McLampy failed to disclose the claim element of a control node receiving incoming calls, if a current call volume is below a threshold value, assigning the incoming calls to a first proxy and a second proxy based on a round robin protocol, and if the current call volume is above the threshold value, assigning the incoming calls to the first proxy and the second proxy based on their respective weights.

While, agreement on the claims was not reached, the Examiners suggested that the claims may be allowable if subject matter from claim 28 or claim 29 were amended to include more detail from the specification and then incorporated into the independent claims.

7. Summary

Applicants respectfully submit that, in view of the remarks above, all claims are in condition for allowance and solicit action to that end. If there are any matters that may be resolved or clarified through a telephone interview, the Examiner is respectfully requested to contact Applicants' undersigned representative at (312) 913-3361.

Respectfully submitted,

McDonnell Boehnen Hulbert & Berghoff LLP

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By: /Bradley J. Hulbert/
Bradley J. Hulbert
Reg. No. 30,130